




The Division of Open Government welcomes you.

We will begin shortly.
Please note all participants will be muted.

To ask a question, submit your inquiry in the "Questions" box.

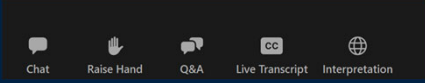
1



Pre-Training Translation Instructions

Instructions:

- 1). At the bottom right of your screen, you will see the "interpretation" icon
- 2). Click your desired language
- 3). Click "mute original audio"



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Open Meeting Law:
Balancing Government Transparency
with Government Efficiency

Webinar

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Who the AGO Serves & How

Who:
The Commonwealth

- Residents of the Commonwealth and their public interests
- State departments, officers, and commissions
- Groups of consumers

How:
Four Major Ways this Work is Executed

Investigation


Enforcement

Prevention

Policy

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Public Protection & Advocacy Bureau

Description

- Protecting students against predatory for-profit schools;
- Ensuring that workers are paid the wages they are owed;
- Combating discrimination by landlords and employers;
- Keeping struggling homeowners in their homes through loan modifications; and
- Fighting for consumers against scams and other deceptive business practices.

Divisions of the Public Protection & Advocacy Bureau

Civil Investigations	Insurance and Financial Services
Consumer Protection	Civil Rights
Fair Labor	CARD/HomeCorps

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Where the AGO is located

The Attorney General's Office engages with every city and town of the Commonwealth. The Attorney General's Office also runs a statewide Consumer Advocacy and Response Division and supports over thirty regional local consumer and face to face mediation programs, which you may choose to contact.



Central Massachusetts
10 Mechanic Street
Worcester

Boston
One Ashburton Place
and
100 Cambridge Street

Western Massachusetts
1441 Main Street
Springfield

Southeastern Massachusetts
700 Pleasant Street
New Bedford

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Purpose of Open Meeting Law (OML)

Government Accountability

↔

Government Efficiency

Ensures transparency by public bodies by requiring:

- Notice
- Open Deliberations
- Public Access

Allows government to efficiently manage operations by:

- Providing for certain deliberations in executive session
- Maintaining confidentiality of certain records of executive session

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Attorney General's Role

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Certification

CERTIFICATION BY RECEIPT OF OPEN MEETING LAW MATERIALS

I, _____, who is qualified for the office of _____, hereby certify that I have received copies of the following Open Meeting Law materials:

(1) the Open Meeting Law, G.L. c. 19A, §§ 19A-19J;

(2) regulations promulgated by the Attorney General under G.L. c. 19A, § 19A-19J and (3) educational materials promulgated by the Attorney General under G.L. c. 19A, § 19A-19J, including the Open Meeting Law and its Enforcement Manual.

I have read and understood the requirements of the Open Meeting Law and the Enforcement Manual and I hereby understand that the materials have received may be needed or updated from time to time, and that I have continuing obligations to implement and manage the Open Meeting Law being my own affairs.

Name: _____

Address of Public Body: _____

Date: _____

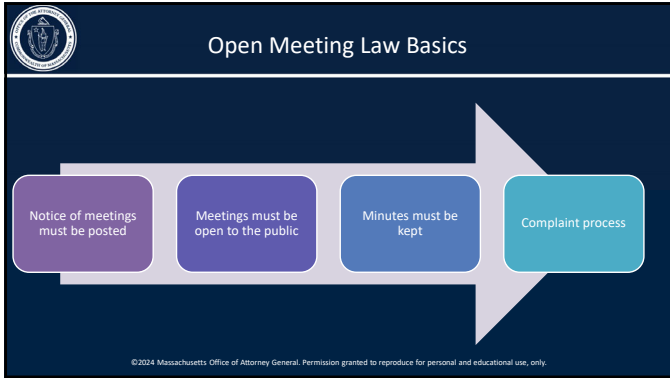
Approved G.L. c. 19A, § 19A-19J, for receipt and use of this certificate and the materials according to the original and corrected versions, to be provided to the public, that are the sole property of the Attorney General's Office and are not to be reproduced, distributed, or otherwise used without the written permission of the Attorney General's Office.

Members must sign certification within two weeks of receipt:

- Read and understand requirements of the law and consequences for violating it
- Educational Materials:
 - OML Guide Book
 - Last 5 Years of OML Determinations

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Open Meeting Law Basics

Notice of meetings must be posted

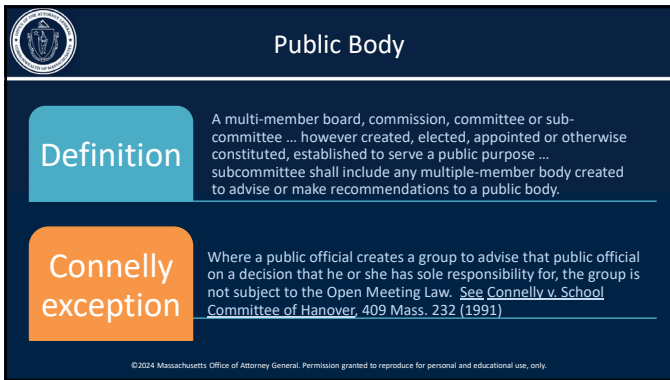
Meetings must be open to the public

Minutes must be kept

Complaint process

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Public Body

Definition
A multi-member board, commission, committee or sub-committee ... however created, elected, appointed or otherwise constituted, established to serve a public purpose ... subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

Connelly exception
Where a public official creates a group to advise that public official on a decision that he or she has sole responsibility for, the group is not subject to the Open Meeting Law. See [Connelly v. School Committee of Hanover, 409 Mass. 232 \(1991\)](#)

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Exclusions

State Legislature
Massachusetts House of Representatives

Judicial Branch
Massachusetts Supreme Judicial Court

Not-for-Profit Organizations
THE GREATER WORCESTER LAND TRUST
The Greater Worcester Land Trust


Focus Groups

No Public Purpose

Constitutional Officers
Massachusetts Governor


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Quorum and Deliberation

“An oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.”







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Deliberation

Not deliberation:


 <ul style="list-style-type: none"> • Agenda • Scheduling 	 <ul style="list-style-type: none"> • Reports or documents
 <ul style="list-style-type: none"> • Subquorum, but not subcommittee 	 <ul style="list-style-type: none"> • Recess a Town Meeting for emergency

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Social Media



- Communicator’s intent in posting to a social media platform (Facebook, Twitter) is relevant; whether other members of the public body happen to see the communication is not determinative.
- Communication that is directed at members of the public, where no other member of the public body responds, and any viewing of posts by fellow members of the public body is incidental is generally not OML violation.
- Text messaging between a quorum of public body members, during or outside of a meeting, may constitute private deliberation.
- Public body member may subscribe to a listserv. However, where a quorum of the members of a public body subscribe to a listserv, the public body risks unlawful deliberation.
- Email discussion of a public body’s operation, such as leadership of public body, is a matter of public business that should be reserved for an open meeting.
- Public body can share documents in online drop box, but limited to distribution of meeting agenda, scheduling information, and reports or documents to be discussed at meeting only if no opinion is expressed.

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Meeting

Definition: Deliberation by public body with respect to any matter within the body's jurisdiction

Excludes:

- On-site Inspections
- State Quasi-Judicial Boards
- Town Meetings (Tewksbury Town Meeting)
- Events
- Attendance at Meetings of other Public Bodies

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Meeting Notices

RECEIVED
By: [Name] Date: [Date]

- Date of meeting
- Time of meeting
- Place of meeting
- List of topics reasonably anticipated
- Date and time of notice posting

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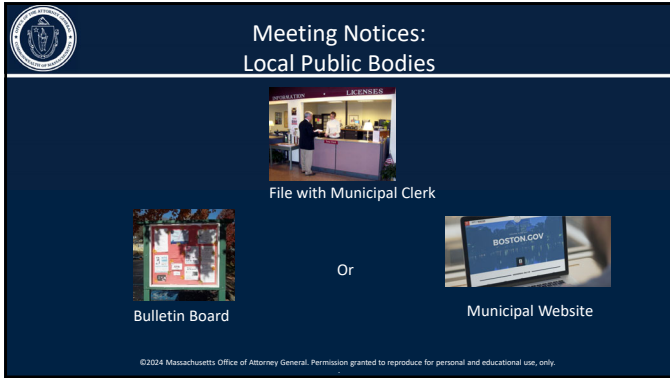
Meeting Notices

Emergency Meeting

- Unexpected
- Requires immediate action

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**Meeting Notices:
Local Public Bodies**

File with Municipal Clerk

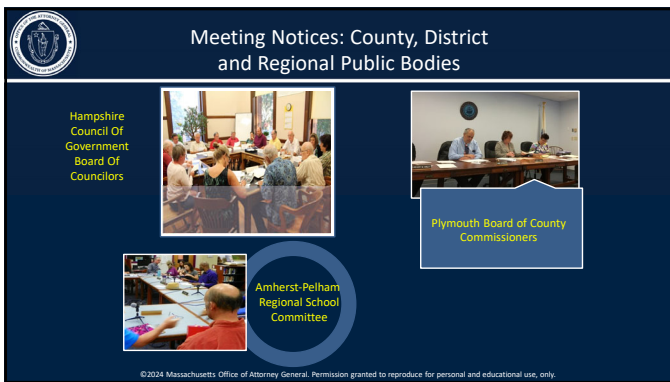
Or

Bulletin Board

Municipal Website

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**Meeting Notices: County, District
and Regional Public Bodies**

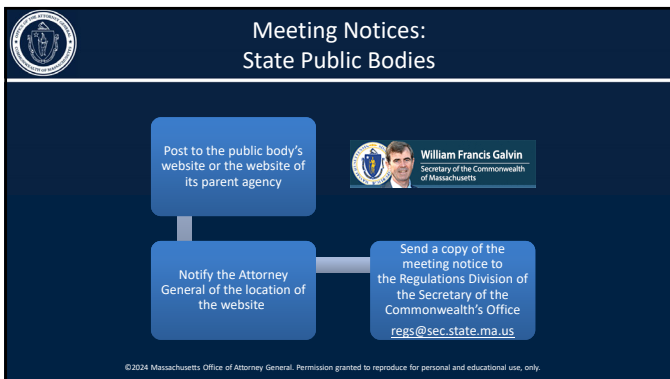
Hampshire Council Of Government Board Of Councilors

Plymouth Board of County Commissioners

Amherst-Pelham Regional School Committee

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**Meeting Notices:
State Public Bodies**

Post to the public body's website or the website of its parent agency


Notify the Attorney General of the location of the website


Send a copy of the meeting notice to the Regulations Division of the Secretary of the Commonwealth's Office
reps@sec.state.ma.us

William Francis Galvin
 Secretary of the Commonwealth of Massachusetts


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 **Notice Posting:
Common Concerns**



What if a new topic arises after notice is posted?




What if the clerk can't post notice in time?



Canceling a meeting?

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 **Meeting Notices:
Websites**

Finding notices

- Notices should be easy to find on the website; listed either in a central page or at each public body's page
- Avoid posting in multiple locations unless linked to same document/page


Webpage outages

- 6 business hours to fix website, otherwise must cancel noticed meetings within 48 hours of outage




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 **Remote Access and Remote Participation**


Temporary legislative provisions, in effect until March 31, 2025, suspend two key provisions of the Open Meeting Law.

- 1) Instead of providing physical access to a meeting location, public bodies may provide access through "adequate, alternative means."
- 2) All public body members may participate in the meeting remotely.



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Remote Participation by the Public Body

Procedures for Remote Participation

Notify chair


Announcement

Roll call votes


Documents

Executive session declaration

Technology



Technical difficulties




Until March 31, 2025:

- No need to first "adopt" remote participation
- No requirement that a quorum or the chair be physically present

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Accessibility

Adequate, alternative access: Ability to clearly follow the proceedings of the public body while they are occurring

Reasonable efforts to accommodate crowds

Accessible to individuals with disabilities

Americans with Disabilities Act, federal Rehabilitation Act of 1973, state constitutional provisions

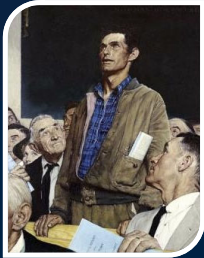
The Attorney General's Civil Rights Division can assist -
Contact the Civil Rights Division at (413)-523-7710

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Public Participation



Public may attend open session

Addressing the public body

Recording/Informing

Removal

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Executive Session

Procedural requirements for entering executive session

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Executive Session Purpose: 1

“To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.”

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Executive Session Purpose: 2

“To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.”

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 Executive Session Purpose: 3

"To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares."



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 Executive Session Purpose: 4 & 5

4. Security personnel or devices




5. Criminal misconduct




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 Executive Session Purpose: 6


"To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body."




Wellfleet, MA

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 Executive Session Purpose: 7

“To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.”



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 Executive Session Purpose: 8

“To consider or interview applicants for employment or appointment by preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening.”



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 Executive Session Purposes 9 & 10

9. Confer with mediator on litigation or decision




10. Trade secrets in the course of activities conducted by a public body as an energy supplier




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Meeting Minutes



- Minutes must state the date, time, place of the meeting, and list of members present or absent
- Minutes must include:
 - A summary of discussion of each topic
 - Decisions made and actions taken, including a record of all votes - Secret ballots prohibited; roll call votes recorded accordingly
 - List of documents and other exhibits used by the body at the meeting, including by remote participants

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Meeting Minutes

Approving Minutes


- Latest of 3 meetings or 30 days BUT whenever possible, approve at the next meeting
- Documents and exhibits used by public body must be retained by the public body but do not need to be physically stored with the meeting minutes

Upon Request

- Open session minutes provided within 10 days of request – Whether in draft or approved form
- For all other records – Consult Supervisor of Records in the Secretary of State's Office

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Executive Session Minutes

Minutes must be reviewed periodically by the chair or public body to determine if the purpose for executive session remains. The determination must be announced during the next meeting and be included in the minutes

Public body must respond within 10 days to request for executive session minutes	Provide minutes if no longer exempt from disclosure; or	Review at next meeting or within 30 days, whichever comes first.
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Document Used at a Meeting

Documents used by a public body during an open meeting are public records!


Document is considered "used" when it is physically present, verbally identified, and its contents are discussed by the public body during a meeting

Two types of materials are exempt from public disclosure:

- Performance evaluations NOT created by members of the public body
- Application materials, other than resumes


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Complaint Process


Step 1: The Complainant





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Complaint Process

Step 2: The Public Body


Chair disseminates the complaint for response within 14 business days

May delegate responsibility for responding after public body review

Public body may request an extension of time to respond for good cause

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Complaint Process

Step 3: The Attorney General's Office


If the complainant is not satisfied with the resolution of the complaint by the public body, he/she may file the complaint with the Division 30 days after the complaint is filed with the public body

Complaints must be filed with the AGO within 90 days of the date of the original alleged violation or reasonable discovery of violation

- The AGO will not review allegations that were not raised in the initial complaint filed with the public body
- Complaints filed with the Attorney General's Office, and documents submitted with the complaint, are considered a public record

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Complaint Process

The Division of Open Government

Review complaint


Conduct investigation

Finding & Remedies

Appeal

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Judicial Complaint Process

Attorney General or 3 or more registered voters may initiate a civil action to enforce the Open Meeting Law



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Review

- Public body member certification
- Notice must be posted for meetings
- Meetings must be open to the public, unless public body enters executive session
- Minutes must be kept for open and executive sessions
- Complaint process

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Resources

Attorney General's Open Meeting Law Website
<http://www.mass.gov/the-open-meeting-law>

- Open Meeting Law: G.L. c. 30A, §§ 18-25
- Regulations: 940 CMR 29.00
- Guide
- FAQs
- Checklists
- Determination Letters

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Contact Information

Office of Attorney General
 Division of Open Government
 One Ashburton Place
 Boston, Massachusetts 02108
openmeeting@mass.gov
 (617) 963-2540

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Contact Us

www.mass.gov/ago
617-727-2200



File a Complaint with the Attorney General's Consumer Hotline
617-727-8400

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Resources
Have a Complaint or Question?

General Assistance
Consumer Hotline: (617) 727-8400
<https://www.mass.gov/how-to/file-a-consumer-complaint>

Specific Hotlines
HomeCorps (617) 573-5333
Elder Hotline (888) 243-5337
Fair Labor Division (617) 727-3465
Civil Rights Division (617) 727-2200
Medicaid Fraud Tipline (617) 963-2360
Insurance Fraud Tipline (617) 537- 5330
Insurance & Health Care Consumer Helpline (888) 830-6277

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